

DECLARATION AND POWER OF ATTORNEY

We, Barry Voroba and Marlyn J. Anderson, declare that: (1) our respective citizenships and residence/post office addresses are indicated below; (2) we have reviewed and understand the contents of the specification identified below, including the claims, as amended by any amendment specifically referred to herein, (3) we believe that we are the original, first, and joint inventors of the subject matter in

LOW POWER INFRARED PORTABLE COMMUNICATION SYSTEM WITH WIRELESS RECEIVER AND METHODS REGARDING SAME

Filed: Herewith on 4 April 2000

Serial No.: unknown

described and claimed therein and for which a patent is sought; and (4) we hereby acknowledge our duty to disclose to the United States Patent and Trademark Office all information known to us to be material to the patentability as defined in Title 37, Code of Federal Regulations, §1.56.*

We hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate listed below, or §365(a) of any PCT international application which designates at least one country other than the United States of America listed below, and have also identified below any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on the basis of which priority is claimed:

- a. no such applications have been filed.
- b. such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC §119(a)-(d), §365(a), and/or §365(b)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

ALL FOREIGN APPLICATIONS, IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

We hereby claim the benefit under Title 35, United States Code §119(e) of any United States provisional application(s) listed below.

- a. no such applications have been filed.
- b. such applications have been filed as follows:

PROVISIONAL APPLICATION(S), IF ANY, UNDER 35 USC §119(e)	
APPLICATION NUMBER	DATE OF FILING (day, month, year)

* Title 37, Code of Federal Regulations, §1.56 is reproduced on the attached page.

007370-502-550

Serial No. unknown

Filing Date: Herewith on 4 April 2000

Title: **LOW POWER INFRARED PORTABLE COMMUNICATION SYSTEM WITH WIRELESS RECEIVER AND METHODS REGARDING SAME**

We hereby claim the benefit under Title 35, United States Code, §120 of any United States applications or §365(c) of any PCT international application(s) designating the United States of America, listed below. Insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, §112, we acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

- a. no such applications have been filed.
- b. such applications have been filed as follows:

APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

We hereby appoint Ann M. Mueting (Reg. No. 33,977), Kevin W. Raasch (Reg. No. 35,651), Mark J. Gebhardt (Reg. No. 35,518), Victoria A. Sandberg (Reg. No. 41,287), David L. Provence (Reg. No. 43,022), Matthew W. Adams (Reg. No. 43,459), and Loren D. Albin (Reg. No. 37,763) our attorneys and agents with full powers (including the powers of appointment, substitution, and revocation) to prosecute this application and any division, continuation, continuation-in-part, reexamination, or reissue thereof, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please direct all correspondence in this case to:
 Attention: Mark J. Gebhardt
 Mueting, Raasch & Gebhardt, P.A.
 P.O. Box 581415
 Minneapolis, MN 55458-1415
 Telephone No. (612) 305-1220
 Facsimile No. (612) 305-1228

The undersigned declare further that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Wherefore, we pray that Letters Patent be granted to us for the invention described and claimed in the specification identified above and we hereby subscribe our names to the foregoing specification and claims, Declaration and Power of Attorney, on the date indicated below.

Barry Voroba *April 4, 2000*

Name: Barry Voroba Date
 Address: 5509 Vine Hill Road South, Minnetonka, MN 55345
 Citizenship: USA

Marlyn J. Anderson *April 4, 2000*

Name: Marlyn J. Anderson Date
 Address: 3913 Brunswick Avenue South, St. Louis Park, Minnesota 55416
 Citizenship: U.S.A.

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§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

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MUETING AND RAASCH

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Docket No. 129.0010 0101

SMALL BUSINESS

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 C.F.R. §1.9(f) AND 1.27(c)) - SMALL BUSINESS CONCERN

I hereby declare that I am

- a) the owner of the small business concern identified below:
- b) an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: MicroTalk Technologies, Inc.
 ADDRESS OF CONCERN: 10001 Wayzata Blvd., Suite 210
Minnetonka, Minnesota 55305

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 C.F.R. §121.3-18, and reproduced in 37 C.F.R. 1.9(d), for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time, or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled **LOW POWER INFRARED PORTABLE COMMUNICATION SYSTEM WITH WIRELESS RECEIVER AND METHODS REGARDING SAME** by inventors Barry Voroba and Marilyn J. Anderson described in

- a) the specification filed herewith.
- b) application serial no. _____, filed _____.
- c) patent no. _____, issued _____.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern, or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor(s), who could not qualify as an independent inventor(s) under 37 C.F.R. §1.9(c) or by any concern that would not qualify as a small business concern under 37 C.F.R. §1.9(d) or a nonprofit organization under 37 C.F.R. §1.9(e). *NOTE: Separate verified statements are required from each named person, concern, or organization having rights to the invention averring to their status as small entities. (37 C.F.R. §1.27)

NAME _____
 ADDRESS _____
 INDIVIDUAL SMALL BUSINESS CONCERN NONPROFIT ORGANIZATION

NAME _____
 ADDRESS _____
 INDIVIDUAL SMALL BUSINESS CONCERN NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. §1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME BARRY VOROBA
 TITLE C.E.O.
 ADDRESS 10001 Wayzata Blvd., Suite 210, Minnetonka, Minnesota 55305

SIGNATURE Barry Voroba DATE April 4, 2000

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